

REMARKS

In response to the previous Restriction Requirement dated June 21, 2006, Applicant elected the Group II invention with traverse. In the present Restriction Requirement, the Examiner has joined Groups IV and V with Group II. In addition, the Examiner acknowledges that claims 1, 2, and 12-13 link inventions I-IV (previously I-VI), and that the restriction requirement between the linked inventions is subject to the non-allowance of the linking claims.

In the present Restriction Requirement, the Examiner is requiring further restriction of the Group II invention to one of raf17, raf17-U61C, raf17-U52C, and raf17s. In response to the restriction requirement, Applicant elects raf17-U61C (*i.e.* claims 1-19) with traverse.

The Examiner states that “Although the sequences claimed each **target and modulate the expression of a particular gene**, the instant sequences are considered to be unrelated, since each sequence claimed is structurally and functionally independent and distinct for the following reasons: each sequence has a unique nucleotide sequence, **each sequence targets a different and specific region of a distinct nucleic acid, and each sequence, upon binding to a distinct nucleic acid, functionally modulates (increases or decreases) the expression of the gene to a varying degree.**” *Restriction Requirement*, page 4 (emphasis added). In view of the bolded text in the preceding quote, Applicant would like to clarify that raf17, raf17-U61C, raf17-U52C, and raf17s are *aptamers*. As described in the present specification, aptamers are nucleic acids that can be selected to specifically bind a wide range of targets including, for example, amino acids or cell membranes. *Specification*, p. 2, ln. 6-10. The target of raf17, raf17-U61C, raf17-U52C, and raf17s is ATP (*see e.g.*, Table 1 in the present specification). Accordingly, the Examiner’s arguments that raf17, raf17-U61C, raf17-U52C, and raf17s each target and modulate the expression of a particular gene appears to be based on a misunderstanding of the present disclosure.

As mentioned above, raf17, raf17-U61C, raf17-U52C, and raf17s all recognize ATP. Applicants further note that raf17-U61C is a mutant of raf17 in which the uridine at position 61 was replaced with a cytidine; likewise, raf17-U52C is a mutant of raf17 in which the uridine at position 52 was replaced with a cytidine. *Specification*, p. 26, ln. 12-16. In addition, raf17s is a truncated version of raf17. *Specification*, p. 27, ln. 17-20; SEQ ID NO: 19. Accordingly, the

sequences of raf17, raf17-U61C, raf17-U52C, and raf17s are very similar and it would not constitute an undue burden on the Office to search these 4 sequences. As mentioned in Applicant's previous response, the Commissioner has determined that normally ten independent and distinct nucleotide sequences constitute a reasonable number for examination purposes in a single application. 1192 OG 68; *see also* MPEP § 803.04. The 4 sequences of raf17, raf17-U61C, raf17-U52C, and raf17s, therefore, constitute a reasonable number for examination purposes in a single application

It is the Examiner's burden to establish by appropriate explanation that there would be a serious burden on the Examiner if restriction is not required. MPEP § 808.02. As explained above, the Examiner's reasoning to justify restriction among raf17, raf17-U61C, raf17-U52C, and raf17s is based on arguments that are inapposite to the presently claimed invention. Accordingly, the Examiner has not satisfied his burden. Applicant, therefore, respectfully requests the reconsideration and withdrawal of the restriction requirement.

The Examiner further requires election of one species of fluorescent dye. In response to the species election requirement, Applicant elects fluorescein. Applicant reserves the right to have additional species considered upon the allowance of a generic claim. Claims 1-19 are readable on the elected species.

The Examiner is invited to contact the undersigned attorney at (512) 536-5654 with any questions, comments, or suggestions relating to the referenced patent application.

Respectfully submitted,



Travis M. Wohlers
Reg. No. 57,423
Attorney for Applicant

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-5654

Date: December 22, 2006